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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,193	11/18/2003	Kevin J. Dowling	CKB-113.01	6235

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EXAMINER

LOWEN, ALYSSA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,193	Applicant(s) DOWLING ET AL.	
	Examiner Alyssa M. Lowen	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Knauff (4327518). Knauff discloses a toy apparatus (column 2 lines 17-21) having at least one sensor in the form of a switch (SW) that monitors a detectable condition in the form of a centrifugal force associated with the apparatus (column 5 lines 8-13), an output device in the form of an LED-based light source (41, 41') provides a perceivable condition by generating variable color light that changes between high and low visual states creating a plurality of different lighting effects (column 5 lines 17-40) and a controller in the form of a commutator (F) is configured to control the output device based on the detectable centrifugal force (column 5 lines 5-16). The device also includes a sound effect perceivable condition created by a sound generator that is configured to generate a plurality of different sound effects based on the angular velocity of the device (column 4 lines 13-34). Knauff also discloses a method for enhancing interactivity with a toy by monitoring at least one detectable condition with a controller and controlling a plurality of different perceivable lighting conditions and sounds such that at least one of the light and sound effects is different from the other light and sound effects based in part on the detectable condition or centrifugal force and the speed of rotation. The detectable

condition can include a motion, spin or velocity of the body and a centrifugal force. A measurable condition such as angular velocity has a plurality of degrees or stages and is associated with the detectable condition (column 5 lines 14-16).

3. Claims 19-20 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Rumsey (4801141). Rumsey discloses a toy apparatus having a sound generating device (11), an LED-based light source (column 2 lines 26-29), a microprocessor (29) is configured to control the sound generating device to generate a plurality of different sounds and to control the LED-based light source to generate a plurality of different lighting conditions (columns 1-2 lines 66-1), and at least one sensor (15) configured to measure at least one detectable condition such as the position of the toy. The microprocessor is further configured to control the sound generating device to generate at least one first sound of the plurality of different sounds and control the LED-based light source to generate at least one first lighting condition of the plurality of different lighting conditions based at least in part on the detectable condition (column 1 lines 42-53). The detectable condition includes motion of the device (column 1 lines 42-53).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knauff and Johnson (5941751). Knauff discloses the basic inventive concept substantially as

claimed used with rotational toys such as a rotating disk or "Frisbie" with the exception of the first sound being representative of a falling bomb activated when motion is detected and a second sound representative of an explosion when an impact is detected. Johnson discloses a toy that makes a whistling sound representative of a falling bomb when it is moving through the air and makes an exploding sound when the toy is impacted (column 4 lines 12-42). It would have been obvious to one of ordinary skill in the art from the teaching of Johnson to give the rotational toy of Knauff bomb and exploding sounds in order to amuse and entertain a child playing with the device.

6. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knauff and Lys (6166496). Knauff discloses the basic inventive concept, substantially as claimed, with the exception of the LED light source providing multicolored illumination. However, Lys discloses that a single LED light source can change colors in response to changing electrical signals (column 1 lines 59-61) showing this feature to be old in the LED art. It would have been obvious to one of ordinary skill in the art from the teaching of Lys to have the LED light source of Knauff be able to provide multicolored illumination in order to retain the interest and amusement of a child with the toy.

7. Claims 1 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (5316293), Knauff and Johnson. Hamilton discloses a toy device having a sensor for monitoring the centrifugal force of a toy (45), an output device in the form of and LED-based light source (column 5 lines 41-45), a controller in the form of circuitry (35), which is configured to control the output device based on the centrifugal force

(column 4 lines 19-26). The device creates the sound of a bomb when set in motion by a user throwing the ball (column 2 lines 21-31). Knauff discloses a toy device actuated by centrifugal force providing variable color light effects (column 5 lines 17-40). It would have been obvious to one of ordinary skill in the art from the teaching of Knauff to include variable color light in order to create a visually appealing display that will entertain and amuse a user of the toy. The device of Hamilton and Knauff discloses the basic inventive concept, substantially as claimed, with the exception of a second sound representative of an explosion in response to an impact following the motion. Johnson discloses a toy that makes a whistling sound representative of a falling bomb when it is moving through the air and makes an exploding sound when the toy is impacted (column 4 lines 12-42). It would have been obvious to one of ordinary skill in the art from the teaching of Johnson to give the rotational toy of Hamilton and Knauff an exploding sound in order to amuse and entertain a child playing with the device by creating a more complete sound effect.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knauff and Tachau (20010049249). Knauff discloses the basic inventive concept, substantially as claimed, with the exception of the sensor being a three-way motion detector. Tachau discloses a toy that uses a three-way motion sensor (page 3 paragraph 42). It would have been obvious to one of ordinary skill in the art from the teaching of Tachau to use a three-way sensor in order to obtain the necessary data to create an interactive toy that would be entertaining to a child.

9. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumsey, Hamilton and Johnson. Rumsey discloses the basic inventive concept, substantially as claimed, with the exception of multiple detectable conditions and a falling bomb sound with respect to a motion and an explosion sound with respect to an impact. Hamilton discloses a toy ball having a sensor for monitoring the centrifugal force of a toy (45) as well as creating the sound of a bomb when set in motion by a user throwing the ball (column 2 lines 21-31). It would have been obvious to one of ordinary skill in the art from the teaching of Hamilton to create a toy that can be propelled through the air and create an amusing and entertaining sound as a result of its movement. Johnson discloses a toy that makes a whistling sound representative of a falling bomb when it is moving through the air and makes an exploding sound when the toy is impacted (column 4 lines 12-42). It would have been obvious to one of ordinary skill in the art from the teaching of Johnson to give the rotational toy of Rumsey and Hamilton an exploding sound in order to amuse and entertain a child playing with the device by creating a more complete sound effect.

10. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rumsey and Tachau. Rumsey discloses the basic inventive concept, substantially as claimed, with the exception of the sensor being a three-way motion detector. Tachau discloses a toy that uses a three-way motion sensor (page 3 paragraph 42). It would have been obvious to one of ordinary skill in the art from the teaching of Tachau to use a three-way sensor in order to obtain the necessary data to create an interactive toy that would be entertaining to a child.

11. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumsey and Knauff. Rumsey discloses the basic inventive concept, substantially as claimed, with the exception of the detectable condition including a plurality of degrees of a continuously measurable condition such as velocity. Knauff discloses a toy having a measurable condition such as angular velocity that has a plurality of degrees or stages and is associated with the detectable condition (column 5 lines 14-16). It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Knauff to have the detectable condition include a plurality of degrees of a continuously measurable condition in order to create a toy that would visually display the changes in the measurable condition creating an interesting visual effect.

Response to Arguments

12. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AML



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